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Attn: Deputy Chief Competitive Pricing Division, Common Carrier Bureau
Original signed/sent via U.S. Airmail/Aug 18 1997

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington D.C. 20554

DA No. 97-1628

DOCKET FILE COPY ORIGINAL

Policy and Rules Concerning the Interstate, Interexchange Marketplace	)))	CC Docket No. 96-61
Implementation of Section 254(g) of the Communications Act of 1934, as amended	))	

The Federal Communications Commission Has Invited Comments
Before September 5, 1997 By The People In The Territory Of American Samoa
On Integrating Our Telephone Long Distance Rates With The Rest Of The United States.

The Following Statement was published by The American Samoa Fund For The Public Interest as a full page paid advertisement in the largest newspaper of general circulation in the Territory of American Samoa, The Samoa News, in three issues, August 3, August 5, August 8, 1997, and is here submitted as a public comment by The American Samoa Fund For The Public Interest to be made part of the Record in the above entitled docket. The text follows (quote):

Everything you wanted to know about Aleki Sene's operation of the ASG long distance phone system, and were afraid to ask -- Part 1

Federal Communications Commission Orders U. S. Domestic Integrated Rates for American Samoa's Overseas Telephone Service

The Federal Communications Commission (FCC) in Washington, D.C. has ordered the free wheeling long distance rates set by Aleki Sene, Director of ASG Communications, for the last 35 years, to come to a halt. Final plans for setting FCC ordered integrated rates must be submitted by August 1, 1997.

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How does American Samoa long distance rates compare now with the rest of America?

The FCC action comes at a time when American Samoans are paying a high cost 80 cents for a direct dialed minute to the U. S. Mainland, and 72 cents from the States to American Samoa. Yet American Samoans are seeing that phone rates (AT&T) from the States to Australia and New Zealand are 35 cents a minute, 33 cents a minute to Europe, 12 cents minute to England, and 12 cents a minute unrestricted calls coast to coast within the United States. Even, Guam at 55 cents per minute is headed for much lower rates in the next few months, as the FCC ordered rate integration comes into effect in that U.S. Territory, the farthest of any U.S. Territory from the U.S. Mainland.

Now, finally, the FCC has ordered that long distance rates for American Samoa shall be "integrated" with the U.S. domestic service, and that these rates be "geographically averaged", under the Telecommunications Act of 1996.

What does this mean for American Samoa?

It means reclassifying long distance mainland service to American Samoa as "domestic" rather than "international".

It will mean substantially lower phone rates. The FCC will require continual rate justification and conformity to the new Congressionally mandated policies of bringing the benefits of high technology in telecommunication and its lower costs to the off shore areas of the United States.

It means we can ask for a domestic area code and join the North American Numbering Plan. This can mean ready and possibly free access to all 800 numbers, just as they are available in the Mainland.

It means we can ask for 1 + dialing for equal access to all carriers, and we can individually choose our long distance carrier based on their competitive offerings, AT&T, MCI, Sprint, or GTE. (Feature Group "D" service)

It means that long distance carriers to American Samoa can get cost based access to our local phone service. Stateside local carriers charge a few cents per minute to access their local system. Information from the FCC indicates that Aleki Sene is charging 45 cents per minute for access to the local ASG phone system by the long distance carriers. These long distance carriers, however, only charge 27 cents from anywhere in the U.S. mainland to the local ASG phone lines starting in Tafuna, and this rate should also be lowered by rate integration.

So with Direct Dial Service from the U.S. Mainland to American Samoa available for 72 cents per minute, AT&T, MCI, etc. get 27 cents of this. Aleki Sene is charging the remaining 45 cents to enter the local phone lines.

How does Aleki Sene, Director of Communications, get the authority to charge us an additional 45 cents per minute for our long distance calls entering the short local phone system here in American Samoa? This is almost twice as much as the carriers charge to and from the U.S. Mainland.

The answer, is that Aleki Sene does not have the authority to set telephone rates, and has never had this authority as Director of Communications. The Administrative Procedure Act of American Samoa. requires that all rates and fees to be charged by any office of the government can only be lawfully done after a public hearing on the proposed rates, and formal findings of justification by a hearing judge. This has never been done. The legislature has never approved telephone rates. This has been simply an imposing and taking of fees with no justification, with no review, and with no lawful authority. This has been a general tax imposed without any authority of law.

Has Aleki Sene ever recognized that he is acting unlawfully as Director of Communications?

Yes., he has. In an official Memorandum to Governor Lutali (Serial 28-96) signed by Mr. Sene as Director of Communications, Mr. Sene states: "I knew way back in 1964 that there is no legal basis for the American Samoa Government to handle {long distance telephone] toll service".

And again in the same Memorandum, Mr. Sene states: "The Government of American Samoa has all the four major carriers, AT&T, MCI, Sprint, and GTE Hawaii as distant correspondents. ...There is really no legal basis for this."

Sene admits in this same early 1996 Memorandum: "I believe that the FCC will ultimately exercise its lawful authority in American Samoa, at some distant point in the future, but until that time comes let us pay [thru excess long distance telephone revenues] our Executive Office Building Bond, Retirement Loan and ASG subsidy, and take advantage of our unique opportunity here. I highly recommend we refrain from participating in the rate integration proceedings before the FCC" This Memoranda is now in the FCC official file.

When has the FCC ordered long distance phone rate integration to take place for American Samoa?

Firm Plans for rate integration in American Samoa have been ordered by the FCC to be submitted by August 1, 1997. This FCC Order (331-96) was released to the public last summer (1996).

Why, after a full year, has this FCC Order affecting American Samoa never been made public?

The reason is that Aleki Sene has been using his office as Director of Communications to oppose this FCC Order requiring U.S. Domestic integrated rates for American Samoa.

First, Aleki Sene wrote to Governor Lutali in early 1996 stating: "I highly recommend we refrain from participating in the rate integration proceedings before the FCC".

Then on June 12, 1996, Aleki Sene wrote a letter for Gov. Lutali which was sent to the FCC stating that American Samoa's long distance phone rates were "reasonable" and that ASG did not see the need for any rate integration action by the FCC. Noting this letter, the FCC declined to accommodate.
ASG, and ordered that rate integration proceed forthwith.

In view of the FCC's determined stance, Gov. Tauese has bowed to the inevitable, and two weeks ago sent a letter to the FCC, agreeing to rate integration for long distance phone lines to

American Samoa, but not mentioning what he would do about the excessive 45 cent per minute charged by the ASG local phone service for access to the local phone lines.

Will this FCC Order restrict Aleki Sene, Director of Communications, from charging 45 cents per minute access charge for long distance calls using the local phone system?

Effectively, yes. This excessive 45 cents per minute local access charge should go down to a simple cost based local access charges being a few cents per minute. The FCC, through its rate integration efforts, has now been made aware of the extent of the abuses in local access rates for long distance calls. The FCC is now aware that these abuses are occurring in American Samoa because the local phone service has been avoiding the standard FCC regulation as a common carrier.

Additionally, a local group is having a proceeding started before the FCC called a "Formal Complaint" to force Aleki Sene to comply with Federal Law and put ASG telephone service under an FCC controlled common carrier to regulate and enforce reasonable rates for the American Samoa public. This proceeding will not be necessary if the Governor orders Aleki Sene to comply with Federal Law and put our phone service immediately under a common carrier company owned by the local government, such as Puerto Rico does. As of this date, the Governor has not acted.

As Director of Communication Aleki Sene admitted in his 1996 Memorandum to Gov. Lutali Serial 28-96, he knew since 1964 that he has been operating illegally without an FCC common carrier status, and has been avoiding this regulation over his ASG phone operation which in turn has allowed him to freely set his own telephone rates without interference from anyone.

However, the benefits to the American Samoa public from FCC common carrier regulation of our local phone service are many. When a local phone operation in interstate service is a monopoly and dominant in an area, all telephone rates have to be justified to the FCC. Rates cannot be charged that do not relate to the actual phone service provided.

As a common carrier, the ASG phone service can also reclaim the earth stations in Tafuna.

These and other compelling advantages of the FCC forcing our local government owned phone service to obey Federal Law and form and operate under an FCC regulated common carrier company (like the Puerto Rico Government owned telephone service has done for so many years), will be discussed in the next part of this three part series, on everything you wanted to know about our present high cost and uncontrolled telecommunications. (unquote)

This public discussion of important matters of community welfare has been sponsored by the American Samoa Fund for the Public Interest provided by concerned private citizens and businesses of The Territory of American Samoa.Inquiries with regard to this public statement can be made to George Wray, spokesman for the American Samoa Fund for the Public Interest at 633 1570

G. Wray

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Attn: Deputy Chief, Competitive Pricing Division, Common Carrier Bureau/
original signed/ sent U.S. Mail. Aug 20, 1997

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington D.C. 20554

DA No. 97-1628

Policy and Rules Concerning the Interstate, Interexchange Marketplace	)))	CC Docket No. 96-61
Implementation of Section 254(g) of the Communications Act of 1934, as amended	)))	

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Before September 5, 1997 By The People In The Territory Of American Samoa
On Integrating Our Telephone Long Distance Rates With The Rest Of The United States.

The Following Statement was published by The American Samoa Fund For The Public Interest as a full page paid advertisement in the largest newspaper of general circulation in the Territory of American Samoa, The Samoa News, in two issues, August 20, August 22, 1997 (scheduled), and is here submitted as a public comment by The American Samoa Fund For The Public Interest to be made part of the Record in the above entitled docket. The text follows (quote):

Part 3

Is the 10 cent per minute telephone call to all the United States coming to American Samoa?

Yes, we think it will happen, and in just a few months. Here is why.

The U.S.Territory of Guam now has this 10 cent per minute rate even though it is 50% further from the U.S. Mainland than the Territory of American Samoa.

So there should be no reason why the American Samoa people cannot enjoy this same low 10 cent rate, instead of paying eight times more, the 80 cents per minute, which is now imposed on us by the decision of the monopoly telephone service in American Samoa, owned by the American Samoa Government.

This August, this month, the 10 cent per minute phone call to the U.S. Mainland started in Guam. Sprint is now providing telephone service to Guam from the mainland United States and Hawaii for just 10 cents per minute (direct dial service) in the evening and all during the weekend, and 25 cents per minute during the business day.

AT&T is now offering similar rates to Guam but somewhat higher at 29 cents per minute during business hours, and 18 cents after work, and 17 cents during the weekend. But people can choose which carrier they want, AT&T, MCI, Sprint or GTE. All the big telephone carriers now have the same kind of low rates to Guam. And we are going to have this in American Samoa.

But why don't we have this 10 cent rate now? The American Samoa public is still paying 80 cents per minute. Where did we go wrong?

It is a familiar story.

A year ago, in August, 1996, the Federal Communications Commission in Washington, D.C. Issued an Order directing all the Territories of the United States to provide final plans to integrate and lower all their telephone long distance rates to domestic mainland levels by August 1, 1997.

Guam paid attention, and publicly discussed the issues, and sought advice on how they could cooperate and comply.

American Samoa's Office of Communication hid the 1996 FCC Order from public view, and then behind the scenes, it fought the FCC Order lowering long distance phone rates at every turn.

But the Government of Guam accepted this new reality, and formed a Task Force that worked with experts on how they could accomplish the FCC requirements of its 1996 Order.

Acting Governor Tauese in the Lutali administration, also ordered a Task Force formed to accomplish the FCC objectives. But then Office of Telephone Communications Director, Aleki Sene, agreed to meet with them only once, and afterwards he just ignored Lt. Governor Tauese's Task Force. Aleki Sene went his own way. The Task Force never met again, and Aleki Sene wrote his now famous Memorandum to Governor Lutali, that we made public just two weeks ago, stating his opposition to the FCC telephone rate integration for lower long distance rates for American Samoa with the U.S. Mainland.

On July 30, 1997, two days before the August 1, 1997 deadline of its 1996 Order, the FCC was faced with a record of nothing but opposition and no cooperation by the American Samoa Government with their 1996 Order requiring that American Samoa's long distance rates be brought in line with domestic rates on the Mainland.

At the last moment, the ASG Office of Communication tried to bargain with the FCC, saying that ASG will let the inbound long distance rates be integrated by the FCC, but not the outbound rates (now 80 cents per minute) paid by the local population to call out of American Samoa.

The FCC is having none of this. So, on July 30th 1997, the FCC issued a stern Order to the American Samoa Government warning them that if a satisfactory plan is not forth coming by September 5. 1997, that:

> **"The Commission has jurisdiction over provision of interstate communication to, and from, American Samoa, including those provided by the government of American Samoa."**

The FCC further took the unusual step in this July 30th Order, just two weeks ago, by opening the Record for comment by the American Samoa public (all interested parties) to be submitted also to the FCC by September 5, 1997. Then the FCC forcefully promised in its July 30th Order:

> **"On the basis of the resulting record, we will determine whether any regulatory action is necessary."**

So now your personal views and comments to the FCC are very important, especially to tell the FCC that we want our low rates now, and without further delay. Write to the following address before September 5,1997. (allow a week for delivery by September 5, 1997) and referencing "Common Carrier Docket 96-61 and DA No. 97-1628" :

Hon. Reed Hundt, Chairman
Federal Communications Commission
Washington, D.C. 20554

Unaccountably, this July 30, 1997 FCC Order inviting public comment has also been hidden from the people of American Samoa, just as the ASG Office of Communication has never advised the public of the 1996 FCC Order on lowering long distance telephone rates for American Samoa.

We also have reason to believe that the Governor of American Samoa as of this date has not been given a copy of this July 30, 1997 FCC Order.

In this Order, the Governor may discover, as we did, that the ASG Office of Communications has adamantly opposed a domestic area code for American Samoa, and that Office of Communications has not been supporting 1+ dialing so American Samoa's public can have easy access to all the carriers, AT&T, Sprint, MCI, or GTE, and choose their own long distance carrier, instead of ASG selecting for them.

These are exactly the steps that the FCC in its July 30th Order specified and strongly recommended that American Samoa take voluntarily without having to be forced. The FCC noted that MCI has stated it will have significant problems in providing its low rate integrated service to American Samoa, if American Samoa does not change to a domestic area code, as Guam has done in following these same FCC recommendations.

When the rates go down to 10 cents per minute for long distance calls to the Mainland, how will the ASG Office of Telephone Communications pay the $2.1 million per year for the ASG Executive Office Building and the ASG Retirement Fund Loan, to which it says it is committed?

The American Samoa Government will no longer be able to make these payments from telephone revenues. In the first place the FCC would never have allowed the Government to make these commitments from long distance telephone revenues for non telephone purposes, had it known in advance; because the Federal law will not permit communication charges for non communication purposes.

But the FCC did not know in advance. The ASG Office of Communications has been running a renegade telephone service outside FCC regulation, or "without a legal basis since 1964" as it was put by the long time Director of ASG telephone Service, Aleki Sene, in his 1996 Memorandum to Gov. Lutali.

The Government will have to go to its normal source of lawful revenues, its taxing authority, or from fees approved under the Administrative Procedure Act. Or ASG can follow the trend of other governments who in recent times, have sold and cashed in their telephone services to private companies.

Can our residential telephone monthly rates, now $9.00, be raised by the ASG Office of Communication to pay for the $2.1 million annual payment for the ASG Executive Office Building and the ASG Retirement Fund Loan, when our long distance rates are lowered ?

Absolutely not. The FCC does not permit any telephone rates to be increased for purposes that have nothing to do with telephone service.

But will the FCC make an exception and allow ASG to temporarily avoid domestic rate integration and the lowering of long distance rates until ASG makes other arrangements for paying for the Executive Office Building and Retirement Loan ?

No. This should not happen. The American Samoa Government will undoubtedly plead that it is a small island government, and it needs to be left alone for a number of years to make other financial arrangements.

But the FCC will look at the Record of American Samoa's response to its 1996 rate integration Order. It will see that there has been no action taken whatsoever to prepare to take care of these $2.1 million annual "obligations" by other means. It has simply been business as usual, as if the 1996 FCC Order had never occurred.

The FCC will see this lack of good faith effort, and note the obvious stalling of the American Samoa Government in its astonishing failure to respond to its Order, then note ASG's brazen statement that it does not need rate integration action by the FCC, then note its last minute attempts to bargain the FCC down by proposing some half way measures whereby it would agree to rate integration inbound to American Samoa, but not for outbound telephone calls.

The FCC will see this simply for what it is: a transparent attempt by the American Samoa Government to keep as much excess revenue from the telephone service as it can, and for as long as it can.

The FCC will note that the excess revenues available annually from the ASG long distance telephone service is over $7.5 million, more than three times what it needs to make its annual $2.1 million payments for its commitment to the Executive Office Building and Retirement Loan for the American Samoa Government. The FCC will also note that the ASG telephone service is an integral part of the American Samoa Government, and its obligations for non telephone debts are still the general obligations of the government, and that assigning the phone service to make these payments, is really an internal affair.

Finally, the FCC will undoubtedly tell the American Samoa Government what it has told everyone else who pleads for exceptions: When the U.S. Congress passed the 1996 Telecommunications Act requiring the Territories to integrate their long distance rate with the U.S. Mainland, it made no exceptions to provide for non telephone related debts that U.S. Territory telephone services may have incurred. The law must be enforced as the Congress has passed it.

The FCC is determined to protect the American consumer from paying unnecessary and unrelated telephone charges, no matter where in the world they occur.

The FCC has made clear its determination to lift from the American consumer the burden of being exploited by monopoly telephone companies everywhere, who add to the cost of telephone long distance services the price of subsidizing unrelated projects.

The FCC has just issued on August 7, 1997, an official Order requiring international telephone rates between the United States and foreign countries be reduced to the actual cost of telephone service, between 15 cents and 23 cents per minute.

It is doubtful that the FCC would be inclined to set a worldwide precedent for an exception, to accommodate American Samoa, one of its own U.S. Territory's phone systems that still wants to continue high telephone rates to subsidize non related obligations.

This type of unrelated subsidy, so unfair to the American telephone consumer, is exactly what the FCC is determined to end. And this same abuse has to end promptly without delay, here in the United States' own Territory of America Samoa.

End of Part 3

This public discussion of important matters of community welfare has been sponsored by the American Samoa Fund for the Public Interest provided by concerned private citizens and businesses of The Territory.

Inquiries with regard to this public statement can be made to George Wray, spokesman for the American Samoa Fund for the Public Interest at 633 1570

George L. Wray